



WASHOE COUNTY

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CM/ACM KS

Finance N/A

DA JG

Risk Mgt N/A

HR N/A

Other N/A

STAFF REPORT

BOARD MEETING DATE: June 9, 2015

DATE: May 12, 2015

TO: Board of County Commissioners

FROM: Robert Smith, Animal Services Manager
Phone: 353-8945; email: rasmith@washoecounty.us

THROUGH: Shyanne Schull, Director of Animal Services

SUBJECT: Second reading and adoption of an ordinance amending Washoe County Code Chapter 55 by clarifying the meaning of a dangerous dog; by specifying that an administrative hearing officer may determine whether a dog is dangerous; by forbidding a finding that a dog is dangerous based solely on its breed; by prohibiting the introduction, relocation or removal of a dog declared to be dangerous without notification to regional animal services; by clarifying that an appeal from a dangerous dog determination is made via petition for judicial review; by providing that the owner of a dangerous dog must maintain an increased surety bond or liability insurance; by providing for mandatory microchipping and spay or neuter of a dangerous dog; by making changes to the dangerous dog registration requirements; by clarifying provisions related to the impoundment of a dangerous dog, and all other matters properly relating thereto. (Bill No. 1739) (All Commission Districts)

SUMMARY

The Washoe County Commission introduced and held a first reading of an ordinance amending Washoe County Code Chapter 55, by revising provisions relating to dangerous dogs.

Washoe County Code Chapter 55 was rewritten to create a unified animal control ordinance which was adopted on June 14, 2005 in accordance with the Interlocal Agreement entered into by the Cities of Reno and Sparks and the County of Washoe to effectuate the consolidation of animal services in the County. In accordance with that Interlocal Agreement and the consolidated ordinances, animal services have been provided on a regional basis now in excess of nine years. It is based on this experience, revision to State Statutes and public input during this time that these amendments to Chapter 55 are being proposed.

In the 2013 legislative session, amendments were made to NRS 202 Crimes against public health and safety, prohibiting breed discrimination when determining a dog dangerous, therefore requiring Washoe County to amend WCC 55.750.

AGENDA ITEM # 3C

- NRS 244.189 provides that the board of county commissioners may exercise such powers and may enact such ordinances not in conflict with Nevada statutes for, inter alia, the control and protection of animals.
- NRS 244.359 provides that the board of county commissioners may enact and enforce ordinances fixing, imposing and collecting an annual license fee on dogs and providing for the capture and disposal of all dogs on which the license fee is not paid; regulating or prohibiting the running at large and disposal of all kinds of animals; establishing a pound, appointing a pound keeper and prescribing his duties; prohibiting cruelty to animals; and designating an animal as inherently dangerous and requiring the owner of such an animal to obtain a policy of liability insurance for the animal in an amount determined by the board of county commissioners. Any such ordinances may apply throughout the entire county or govern only a limited area within the county.
- The Washoe County Board of Commissioners and the City Councils of the City of Reno and City of Sparks consolidated animal control functions in Washoe County to be on a regional basis. The consolidation of animal control services was accomplished by the adoption of ordinances of the three jurisdictions approving an interlocal agreement among the cities of Reno and Sparks and Washoe County which regionalized all field services, including, but not limited to, licensing, enforcement, rabies control, kennel permitting and related administrative functions relating thereto under the jurisdiction and control of Washoe County. The final step in the consolidation process occurred on June 14, 2005 when the Washoe County Board of Commissioners adopted the ordinance which amended Washoe County Code Chapter 55 in compliance with the interlocal agreement for the consolidation of animal services. Since that date, animal services within Washoe County has been operated and provided on a regional basis. We now have over nine years of regional operational experience.
- It is the intention of this ordinance to repeal, enact and revise sections to Washoe County Code Chapter 55 based upon that experience and public input.

County priority/goals: Safe, secure and healthy communities; Public participation and open, transparent communication.

PREVIOUS ACTION

On April 22, 2014 the Washoe County Commission approved the establishment of Washoe County Regional Animal services as a stand-alone department.

On June 17, 2014 the Washoe County Commission authorized initiation of proceedings to amend Washoe County Code (Chapters 5 and 55) related to the creation of the Department of Regional Animal Services.

On July 22, 2014 the Washoe County Commission received an update on the public input process regarding Washoe County Code Chapter 55.750 Dangerous Dog Determination.

On May 12, 2015 the Washoe County Commission introduced and held a first reading of an ordinance amending Washoe County Code Chapter 55, by revising provisions relating to dangerous dogs.

BACKGROUND

On April 22, 2014 the BCC approved establishing Washoe County Regional Animal Services as a standalone department.

On June 17, 2014, the Board directed the Clerk to submit a request to the District Attorney to initiate proceedings to amend Washoe County Code (Chapters 5 and 55).

Also, changes within this code have been recommended based on mandates from the Legislative session of 2013. Specifically, amendments were made to NRS 202 Crimes Against Public Health and Safety, prohibiting breed discrimination when determining a dog dangerous, therefore requiring Washoe County to amend WCC 55.750.

The County Managers Office and Washoe County Regional Animal Services (WCRAS) initially met with OnStrategy to plan the public input process for the proposed code amendments. A first step in the public input process was to share proposed revisions with key stakeholder groups including the Cities of Reno and Sparks and major animal groups in our County, which included the SPCA, NHS and Pet Network. Through individual meetings with staff, input was received from these groups regarding the proposed code amendments.

An online comment process “Open Washoe” was utilized from July 7, 2014 to August 18, 2014 to establish priorities for ordinance workshops, to raise awareness of the code issues and obtain a broad range of input on topics important to the public. The unique feature of this community engagement tool allowed visitors to the site to read all the comments posted by their fellow citizens, as well as the ability to agree or disagree. However, the topic of dangerous dogs remained open until October 10, 2014 for public comment on the proposed code revision.

During the public input process there were numerous media releases and targeted email notifications encouraging the public to give input on the amendments as well as several news stories, print articles and radio shows discussing the changes and encouraging public input, which resulted in additional input being received via phone calls and emails.

This process was implemented to raise awareness of the community issues and to insure the widest range of public input. At key points during the public input process, new questions regarding the code revisions were posted and the proposed code amendments were edited based upon public input. These changes were then posted on “Open Washoe” for citizens to review.

Additionally, links to “Open Washoe” were added to the Animal Services web page and an email account animalcode@washoecounty.us was created for the public to communicate their comments and concerns specific to proposed Code changes.

As stated previously, a workshop was held at the Wilbur D. May Museum on August 25, 2014 to discuss Dangerous Dogs, providing an opportunity for the public to ask questions and give input on the proposed amendments. During this workshop, staff had an opportunity to meet one-on-one with many citizens and address concerns as well as receive valuable input. 50 citizens attended the public workshop on dangerous dogs with 15 visits through “Open Washoe”, and three comment cards. Twenty one respondents rated this as their number one priority. A

summary of the public input received online and through the workshops is attached along with the specific detailed correspondence provided from all public input.

Furthermore, in the 2013 legislative session, amendments were made to NRS 202 Crimes Against Public Health and Safety, prohibiting breed discrimination when determining a dog dangerous, therefore requiring Washoe County to amend WCC 55.750.

A significant area identified from public input focused on requests to introduce penalties into WCC 55.750 Dangerous Dog Determination. Pursuant to current and recommended code changes, the action to determine a dog dangerous is a civil action and therefore penalties or fines cannot be assessed at that time. Once a determination is made, it is the actions of the animal or owner that result in criminal penalties which then can be enforced. WCRAS continues to work collaboratively with the Washoe County District Attorney to ensure penalties and or criminal charges where determined appropriate.

On May 12, 2015 the Washoe County Commission introduced and held a first reading of an ordinance amending Washoe County Code Chapter 55, by revising provisions relating to dangerous dogs.

FISCAL IMPACT

None

RECOMMENDATION

It is recommended that the Board of County Commissioners hold a second reading and adopt an ordinance amending Washoe County Code Chapter 55 by clarifying the meaning of a dangerous dog; by specifying that an administrative hearing officer may determine whether a dog is dangerous; by forbidding a finding that a dog is dangerous based solely on its breed; by prohibiting the introduction, relocation or removal of a dog declared to be dangerous without notification to regional animal services; by clarifying that an appeal from a dangerous dog determination is made via petition for judicial review; by providing that the owner of a dangerous dog must maintain an increased surety bond or liability insurance; by providing for mandatory microchipping and spay or neuter of a dangerous dog; by making changes to the dangerous dog registration requirements; by clarifying provisions related to the impoundment of a dangerous dog, and all other matters properly relating thereto.

POSSIBLE MOTION

Should the Board approve, a possible motion would be:

Move to adopt an ordinance amending Washoe County Code Chapter 55 by clarifying the meaning of a dangerous dog; by specifying that an administrative hearing officer may determine whether a dog is dangerous; by forbidding a finding that a dog is dangerous based solely on its breed; by prohibiting the introduction, relocation or removal of a dog declared to be dangerous without notification to regional animal services; by clarifying that an appeal from a dangerous dog determination is made via petition for judicial review; by providing that the owner of a dangerous dog must maintain an increased surety bond or liability insurance; by providing for mandatory microchipping and spay or neuter of a dangerous dog; by making changes to the

dangerous dog registration requirements; by clarifying provisions related to the impoundment of a dangerous dog, and all other matters properly relating thereto.

SUMMARY: An ordinance amending the Washoe County Code by revising provisions relating to dangerous dogs.

BILL NO. 1739

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY CLARIFYING THE MEANING OF A DANGEROUS DOG; BY SPECIFYING THAT AN ADMINISTRATIVE HEARING OFFICER MAY DETERMINE WHETHER A DOG IS DANGEROUS; BY FORBIDDING A FINDING THAT A DOG IS DANGEROUS BASED SOLELY ON ITS BREED; BY PROHIBITING THE INTRODUCTION, RELOCATION OR REMOVAL OF A DOG DECLARED TO BE DANGEROUS WITHOUT NOTIFICATION TO REGIONAL ANIMAL SERVICES; BY CLARIFYING THAT AN APPEAL FROM A DANGEROUS DOG DETERMINATION IS MADE VIA PETITION FOR JUDICIAL REVIEW; BY PROVIDING THAT THE OWNER OF A DANGEROUS DOG MUST MAINTAIN AN INCREASED SURETY BOND OR LIABILITY INSURANCE; BY PROVIDING FOR MANDATORY MICROCHIPPING AND SPAY OR NEUTER OF A DANGEROUS DOG; BY MAKING CHANGES TO DANGEROUS DOG REGISTRATION REQUIREMENTS; AND BY CLARIFYING PROVISIONS RELATED TO THE IMPOUNDMENT OF A DANGEROUS DOG.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Section 55.750 of the Washoe County Code is hereby amended to read as follows:

55.750 Dangerous dog; determination.

1. As used in this section a dog is:

(a) Dangerous if:

- (1) It is so declared pursuant to subsections 2 or 3;
- (2) Without provocation, on 2 separate occasions within 18 months, it behaved menacingly, to a degree that would lead a reasonable person to defend himself against substantial bodily harm, when the dog was off the premises of its owner;
- (3) Without provocation, it killed or inflicted substantial bodily harm upon a human being on public or private property; whether on or off the property of its owner; or
- (4) Without provocation, it killed or injured any domestic animal while the offending dog was off its owner's property.

2. A dog may be declared dangerous by a law enforcement agency if it is used in the commission of a crime by its owner or keeper.

3. Dangerous dog determination.

(a) Any person who has been attacked by a dog, or an authorized representative of such person, or any law enforcement officer or animal control officer, may make a complaint before an administrative hearing officer approved by the Washoe County Board of County Commissioners, or a judge having jurisdiction over the matter, requesting the dog be determined dangerous.

(b) Any person whose domestic animal has been attacked by a dog, without provocation, and which has been killed or injured by said dog may make a complaint before an administrative hearing officer approved by the Washoe County Board of County Commissioners, or a judge having jurisdiction over the matter, requesting the dog be determined dangerous.

(c) The hearing officer or judge in such action may make a determination that the dog is a dangerous dog based upon evidence of the dog's history or propensity to attack without provocation as provided herein.

(d) In the interests of public safety, regional animal services may require a dog pending a dangerous dog determination to be kept in a completely enclosed and locked enclosure, approved by regional animal services.

4. A dog may not be found dangerous:

(a) based solely on the dog's breed; or

(b) because of a defensive act against a person who was committing or attempting to commit a crime; or

(c) because a person provoked the dog by physically abusing, tormenting, teasing, assaulting, or attacking the subject animal.

5. This section shall not apply to animal shelters, commercial animal facilities, rescue/sanctuary animal facilities which have qualified as commercial animal facilities, or licensed veterinary clinics. This section shall not apply to dogs which are utilized by any law enforcement officer during the performance of his or her duties.

6. An owner or possessor of a dangerous dog shall not:

(a) Introduce the dog into or relocate the dog within Washoe County without 30 days written notice to regional animal services. The notice must include:

(1) a description of the dog;

(2) a copy of the dangerous dog determination order;

(3) the dog's current address and proposed new address;

(b) Introduce the dog into or relocate the dog within Washoe County without prior approval from regional animal services. The dog's owner must submit a new application and fee for property inspection and enclosure approval by regional animal services.

(c) Remove from Washoe County any dog declared dangerous or which has a dangerous dog determination pending without 30 days

written notice to regional animal services.

7. If a hearing officer or judge has found a dog to be dangerous, the hearing officer or judge shall report that determination to regional animal services. If a law enforcement agency has made the declaration under subsection 2, the agency shall report to regional animal services.

8. Upon receipt of the determination from the hearing officer or judge or declaration from a law enforcement officer that a dog is dangerous, regional animal services shall notify the owner of the dog that he must comply with the provisions of section 55.760.

SECTION 2. Section 55.760 of the Washoe County Code is hereby amended to read as follows:

55.760 Dangerous dog; registration.

1. The owner of a dog that has been certified to be dangerous pursuant to section 55.750 must:

(a) Demonstrate that he has provided a proper enclosure to confine the dog and posted on his premises a clearly visible warning sign (containing letter at least 2 inches high) that there is a dangerous dog on the property. In addition, the owner shall display conspicuously a sign with a warning symbol that informs children of the presence of a dangerous dog.

(b) A proper enclosure includes, but is not limited to:

(1) An enclosure constructed of not less than 9 gauge chain link fencing or other material of equal strength as approved by regional animal services. The floor(s) need not be concrete provided that the posts supporting the kennel walls have concrete footings not less than 24 inches in depth and the perimeter of the kennel has a concrete footing at least 6 inches wide and not less than 12 inches deep. The enclosure fencing shall be securely fixed to the pad or footing. A roof over the entire enclosure shall be constructed of not less than 9 gauge chain link fencing and securely fixed to all sides of the enclosure. All fencing and gate(s) shall be at least 6 feet in height. All animals shall at all times have access to an area sheltered from adverse climatic conditions. All sheltered areas must be located inside the enclosure. All entrances to the enclosure must be secured by a padlock at all times. The size of such enclosure shall be determined by the size of the dog as follows:

(i) Small breeds (20 pounds or less): 4 feet in width by 6 feet in length for one dog. An additional 2 feet in width for each additional dog.

(ii) Medium breeds (under 40 pounds and over 20 pounds): 6 feet in width by 12 feet in length for one dog. An additional

4 feet in width for each additional dog.

(iii) Large breeds (40 pounds or more): 12 feet in width by 18 feet in length for one dog. An additional 6 feet in width for each additional dog.

Enclosures of other dimensions may be approved by an animal control officer on a case-by-case basis.

2. The owner of a dangerous dog must:

(a) Post a surety bond with the county in an amount of at least \$250,000.00 per dog declared dangerous, issued by an agency authorized to do business in the State of Nevada, payable to any person(s) injured by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest; or

(b) Provide evidence of a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business in the State of Nevada in the amount of at least \$250,000.00 per dog declared dangerous, insuring the owner for any personal injuries inflicted by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest.

(c) Microchip the dog declared dangerous and provide the identification number to regional animal services.

(d) Spay or neuter the dog within 30 days of declaration and provide proof to regional animal services.

3. The owner of the dangerous dog shall also provide a signed statement attesting that the owner:

(a) Shall maintain and not voluntarily cancel the liability insurance policy or surety bond required herein during the life of the animal; and

(b) Shall immediately notify regional animal services once the owner has knowledge that the dangerous dog is at large, is unconfined, has attacked another animal, has attacked a human being, or has died.

(c) Shall not transfer or give away any dog that has been declared dangerous.

4. The owner of a dangerous dog shall pay an annual inspection and registration fee in an amount per dog as set by the board of county commissioners. The registration fee shall be in addition to any other fees payable under this chapter to cover the increased costs of maintaining the animal's records.

5. The owner of a dangerous dog shall comply with the provisions of this section within 30 days of receipt of notification of the hearing officer or judge's determination of a dangerous dog. Upon compliance with this section, regional animal services shall issue a certificate of registration to the owner of the dangerous dog.

6. The dog's owner shall allow an animal control officer ~~upon~~

or peace officer to inspect the premises where the animal is maintained at any reasonable hour.

Section 3. Section 55.770 of the Washoe County Code is hereby amended to read as follows:

55.770 Dangerous dog; unlawful acts.

1. It is unlawful for an owner of a dog determined to be dangerous pursuant to section 55.750, to fail to register the dog in accordance with section 55.760.

2. It is unlawful for an owner of a dog determined to be dangerous pursuant to section 55.750 to permit the dog to be outside the required enclosure unless the dog is under the direct control and supervision of the owner and the dog is muzzled and restrained by a chain having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or license tag, but must prevent the dog from attacking or biting any person or animal.

3. If a dog determined to be dangerous pursuant to section 55.750 is found to be in violation of this chapter, the owner of said dog shall be guilty of a misdemeanor.

Section 4. Section 55.780 of the Washoe County Code is hereby amended to read as follows:

55.780 Impoundment of dangerous dog; determination pending.

1. A dangerous dog shall be immediately confiscated and impounded by an animal control officer or peace officer upon the occurrence of any of the following:

(a) The dog is not validly registered under section 55.760;

(b) The owner of the dangerous dog does not secure and maintain the surety bond or insurance required under section 55.760;

(c) The dog is outside of the dwelling of the owner, or outside the proper enclosure and not under the required physical restraint of the owner;

(d) The dog attacks a person or another animal.

2. A dog determined to be dangerous pursuant to section 55.750, or a dog which is the subject of a pending dangerous dog hearing, may be held at the county animal shelter in the interest of public safety. The dog's owner shall bear the costs of boarding and other related expenses.

3. If a dog determined to be dangerous pursuant to section 55.750 is found to be in violation of this chapter, the dog shall be immediately confiscated and impounded as required by law pending further court order from a court of competent

jurisdiction. The dog's owner shall bear the costs of boarding and other related expenses.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the _____ day of _____, 2015.

Proposed by Commissioner _____.

Passed on the _____ day of _____, 2015.

Vote:

Ayes:

Nays:

Absent:

Chairman
Washoe County Commission

ATTEST:

County Clerk

This ordinance shall be in force and effect from and after
_____, 2015.